

PATENT  
Attorney Docket 65856-0025

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of :  
Scott A. Sirrine : Examiner: Herng Der Day  
Serial No.: 09/736,232 : Art Unit: 2128  
Filed: December 14, 2000 : Confirmation No.: 9140  
For: DRIVELINE ANGLE ANALYZER :

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**PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE  
TO RECEIVE NOTICE OF ALLOWANCE UNDER 37 CFR 1.181(a)**

**IN THE ALTERNATIVE, PETITION TO REVIVE UNDER 37 CFR 1.137(a) OR (b)**

MS Petitions  
Commissioner for Patents  
Alexandria, VA 22313-1450

Sir:

In response to a Notice of Abandonment mailed January 30, 2009, Applicant hereby petitions to withdraw holding of abandonment and revive the above-identified application. In view of the facts in this case, Applicant is unsure which rule applies for revival of this application.

This application was unavoidably allowed to go abandoned on January 7, 2009, because the October 7, 2008, Notice of Allowance was not received. In other words, the payment of the issue fee was unavoidably delayed because the October 7, 2008, Notice of Allowance was not received by Rader, Fishman & Grauer PLLC, which is designated as the corresponding address in the present application.

I, the attorney in charge of the present application, also attest to the fact that a search of the file jacket and docket records indicates that the October 7, 2008, Notice of Allowance was not received by Rader, Fishman & Grauer PLLC - see Declaration of Michael B. Stewart (attached as Exhibit A).

The facts relating to this unavoidable and/or unintentional abandonment are as follows:

1. On February 4, 2009, a Notice of Abandonment was received from the U.S. Patent and Trademark Office for failure to pay the issue fee.

Serial No.: 09/736,232  
Filed: December 14, 2000

Attorney Docket 65856-0025

2. Louise Schultz of Rader, Fishman & Grauer PLLC is a docket clerk who handles the incoming mail and docket the U.S. Patent and Trademark Office due dates in the Bloomfield Hills office of Rader, Fishman & Grauer PLLC. In Mrs. Schultz' declaration (attached as Exhibit B), the October 7, 2008, Notice of Allowance was not received by the Bloomfield Hills office of Rader, Fishman & Grauer PLLC.
3. If the October 7, 2008, Notice of Allowance had been received and thereby docketed, the due date for paying the issue fee would have been entered into our PATTSY<sup>®</sup> system and subsequently paid.
4. In view of the facts, the above-identified application was clearly abandoned unavoidably and unintentionally.
5. Applicant is hereby enclosing the issue fee herewith.
6. Finally, a petition fee in accordance with 37 CFR 1.17(m) is submitted herewith to cover either unavoidably or an unintentional delayed payment. Applicant requests a refund, if the U.S. Patent and Trademark Office decides that the petition fee should be granted under the unavoidable standard. However, if the U.S. Patent and Trademark Office decide that additional fees are necessary, the Commissioner is hereby authorized to charge payment of the following fees associates with this communication or credit any overpayment to Deposit Account No. 18-0013.

Applicant respectfully petitions for revival of this application.

Dated: February 19, 2009

Respectfully submitted,

By: Michael B. Stewart 1556  
Michael B. Stewart  
Reg. No. 36,018  
Rader Fishman & Grauer, PLLC  
39533 Woodward Avenue, Suite 140  
Bloomfield Hills, Michigan 48304  
Customer No. 010291

# EXHIBIT A

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Attorney Docket 65856-0025

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Serial No.: 09/736,232	:	Art Unit: 2128
	:	
Filed: December 14, 2000	:	Confirmation No.: 9140
	:	
For: DRIVELINE ANGLE ANALYZER :	:	

**DECLARATION OF MICHAEL B. STEWART**

MS Petitions  
Commissioner for Patents  
Alexandria, VA 22313-1450

Sir:

I, Michael B. Stewart, hereby unequivocally stipulate and declare that the following statements of facts are true and correct:

1. I am an equity partner in the law firm of Rader, Fishman & Grauer PLLC at 39533 Woodward Avenue, Suite 140, Bloomfield Hills, Michigan 48304, and have been with the firm since its formation in 1996.
2. I have no recollection that the Notice of Allowance for the above-identified application was received by our firm, and I have conducted search of our office and files. I believe that the Notice of Allowance for the above-identified application was not received by our firm as part of our normal practice as explained in the Declaration of Louise Schultz.
3. In the case of the above-identified application, I first became aware of the abandonment of the above-identified application for failure to pay the issue fee on February 5, 2009, after we received a Notice of Abandonment from the U.S. Patent and Trademark Office.
4. I have no present recollection that the Notice of Allowance for the above-identified application was received by our firm. I have spoken to all the members of our firm that would have possibly handled the Notice of Allowance, and none of them had any

Serial No.: 09/736,232  
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Attorney Docket 65856-0025

recollection of the Notice of Allowance. I have searched our office to locate the Notice of Allowance for the above-identified application. Our firm has no record that the Notice of Allowance for the above-identified application was received.

Dated: February 19, 2009

Respectfully submitted,

By: Michael B Stewart /s/ *Michael B Stewart*  
Michael B. Stewart  
Reg. No. 36,018  
RADER FISHMAN & GRAUER, PLLC  
39533 Woodward Avenue, Suite 140  
Bloomfield Hills, Michigan 48304  
Customer No. 010291

# **EXHIBIT B**

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### DECLARATION OF LOUISE SCHULTZ

MS Petitions  
Commissioner for Patents  
Alexandria, VA 22313-1450

Sir:

I, Louise Schultz, hereby unequivocally stipulate and declare that the following statements of facts are true and correct:

1. I am a full-time employee of Rader, Fishman & Grauer PLLC at 39533 Woodward Avenue, Suite 140, Bloomfield Hills, Michigan 48304. I have been working for Rader, Fishman & Grauer PLLC as a docket clerk for over six (6) years.
2. It is my responsibility to review all incoming mail that Rader, Fishman & Grauer PLLC receives, including all the office communications received from the U.S. Patent and Trademark Office, and to docket any due dates set forth in the office communications for active clients. My daily routine for carrying out the above tasks consists of the following steps.
  - a. All mail for Rader, Fishman & Grauer's Bloomfield Hills, Michigan office is delivered to our receptionist by either courier or the U.S. Postal Service, on a daily basis. Our receptionist opens all of the mail and stamps the mail with the received date. Once opened and stamped, the mail is given to me for docketing.
  - b. After I received the mail, I thoroughly review each office communication for any due date. With specific reference to U.S. Patent and Trademark Office mail, review each office communication having a due date to reply (e.g., Notice of File Missing Parts, Restriction Requirement, Office Actions, Notice

Serial No.: 09/736,232  
Filed: December 14, 2000

Attorney Docket 65856-0025

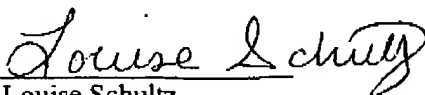
of Allowance, etc.) and look up each file that relates to that communication in our electronic docketing system, PATTSY®.

- c. If the file is an active, pending file, I enter the type of the office communication and a due date for the shortened statutory period for reply. In addition, any subsequent due dates that can be obtained by extension of time are automatically entered by the PATTSY® system up to the statutory period for reply.
  - d. Once the office communication has been docketed in the PATTSY® system, I attach the office communication to a printout copy of the updated PATTSY® report and give the documents to the file room to match to the corresponding physical file. The physical file is then provided to the assistant for the responsible attorney whose initials are listed first in the PATTSY® for his or her review. This process is usually completed the same day the communication is received by our office.
3. I have no present recollection that the Notice of Allowance for the above-identified application was received by our firm. I have assisted Mr. Stewart and his assistants in searching our Office to locate the Notice of Allowance for the above-identified application and was unable to locate it. Our firm has no record that the Notice of Allowance for the above-identified application was received. However, if the Notice of Allowance for the above-identified application was received by our firm, then I would have given the Notice of Allowance to one of Michael B. Stewart's assistants for review and action, as described above.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Dated: February 19, 2009

Respectfully submitted,

By:   
Louise Schultz